

United Nations  
Nations UniesInternational Criminal Tribunal  
for the former Yugoslavia  
Tribunal Pénal International  
pour l'ex-Yougoslavie

“BRČKO” (IT-95-10)

**GORAN  
JELISIĆ****GORAN JELISIĆ***Convicted of murder; cruel treatment; plunder and inhumane acts*

During May and June 1992, acted under the authority of the Brčko police, which at that time was under the control of the Serbian forces, and held a position of authority at the Luka camp, a makeshift detention facility in Brčko, a town and municipality in north-eastern Bosnia and Herzegovina; called himself the “Serb Adolf”

- Sentenced to 40 years’ imprisonment

*Crimes convicted of (examples):***Murder; cruel treatment; plunder** (violations of the laws or customs of war)**Murder; inhumane acts** (crimes against humanity)

- Goran Jelisić killed five people at the Brčko police station and eight at the Luka camp.
- On 6 or 7 May, he escorted an unknown male detainee down a street near the Brčko police station and then shot him in the back of the head with a “Scorpion” pistol.
- He systematically killed Muslim detainees at the Laser Bus Co., the Brčko police station and the Luka camp.
- On about 9 May 1992, near the main hangar building at the Luka camp, a former port facility, he beat a female victim with a police baton and then shot and killed her.
- Goran Jelisić stole money, watches, jewellery and other valuables from the detainees upon their arrival at the Luka camp, threatening with death those who did not hand over all their possessions.

<b>Born</b>	7 June 1968 in Bijeljina, Bosnia and Herzegovina
<b>Indictment</b>	Initial: 21 July 1995; first amended: 13 May 1998; second amended: 19 October 1998
<b>Arrested</b>	22 January 1998, by the multinational Stabilisation Force (SFOR)
<b>Transferred to ICTY</b>	22 January 1998
<b>Initial and further appearances</b>	26 January 1998, pleaded not guilty to all charges; 29 October 1998, pleaded not guilty to one count of genocide
<b>Guilty plea</b>	29 October 1998, pleaded guilty to fifteen counts of crimes against humanity and sixteen counts of violations of the law or customs of war
<b>Trial Chamber sentencing judgement</b>	14 December 1999, sentenced to 40 years’ imprisonment
<b>Appeals Chamber judgement</b>	5 July 2001, sentence of 40 years’ imprisonment affirmed
<b>Serving sentence</b>	29 May 2003, transferred to Italy to serve the remainder of his sentence; credit was given for time served since 22 January 1998

## STATISTICS

Trial days	27
Witnesses called by Prosecution	25
Witnesses called by Defence	19
Witnesses called by Chambers	0
Prosecution exhibits	74
Defence exhibits	8
Chambers exhibits	0

TRIAL	
Commenced	30 November 1998
Closing arguments for the Prosecution	22 September 1999
Closing arguments for the Defence	The judgement was handed down on 19 October 1999 prior to the Defence commencing its case
Trial Chamber I	Judge Claude Jorda (presiding), Judge Fouad Riad, Judge Almiro Rodrigues
Counsel for the Prosecution	Geoffrey Nice, Vladimir Tochilovsky
Counsel for the Defence	Veselin Londrović, Michael Greaves
Judgement	19 October 1999 (oral); 14 December 1999 (written)

APPEALS	
Appeals Chamber	Judge Mohamed Shahabuddeen (presiding), Judge Lal Chand Vohrah, Judge Rafael Nieto Navia, Judge Patricia Wald, Judge Fausto Pocar
Counsel for the Prosecution	Upawansa Yapa, Geoffrey Nice, Morten Bergsmo, Fabricio Guariglia
Counsel for the Defence	William Clegg, Jovan Babić
Judgement	5 July 2001

RELATED CASES	
<i>by geographical area</i>	
ČEŠIĆ (IT-95-10/1) "BRČKO"	
KARADŽIĆ & MLADIĆ (IT-95-5/18) "BOSNIA AND HERZEGOVINA" & "SREBRENICA"	
KRAJIŠNIK (IT-00-39&40) "BOSNIA AND HERZEGOVINA"	
MILOSEVIĆ (IT-02-54) "KOSOVO, CROATIA & BOSNIA"	
PLAVSIĆ (IT-00-39&40/1) "BOSNIA AND HERZEGOVINA"	
ŠEŠELJ (IT-03-67)	
STANIŠIĆ, MICO (IT-04-79)	

## INDICTMENT AND CHARGES

The initial indictment against Goran Jelisić and Ranko Češić (see *Češić* case IT-95-10/1) was confirmed on 21 July 1995. In the amended indictment of 13 May 1998, Goran Jelisić was charged with thirty-two counts: fifteen counts of crimes against humanity; sixteen counts of violations of the laws or customs of war and one count of genocide.

After Goran Jelisić pleaded guilty to thirty-one of the thirty-two counts in the indictment (see below), the judges confirmed a second amended indictment on 19 October 1998.

Goran Jelisić was charged on the basis of individual criminal responsibility (Article 7(1) of the Statute of the Tribunal) with:

- Killing members of a group (genocide, Article 4),
- Murders; cruel treatment; plunder (violations of the laws or customs of war, Article 3),
- Murders; inhumane acts (crimes against humanity, Article 5).

## PLEA AGREEMENT/GUILTY PLEA

The Tribunal's Rules of Procedure and Evidence provide for a plea agreement procedure (Rule 62 *ter*). The Prosecutor and the Defence may agree that, upon the accused entering a plea of guilty to the indictment or to one or more counts of the indictment, the Prosecutor can apply to the Trial Chamber to amend the indictment accordingly and ask for a sentence within a specific range or agree to the sentencing range suggested by the Defence. The Trial Chamber is not bound by any such agreement.

During pre-trial proceedings, an agreement was reached between the parties and a confidential document entitled "Agreed factual basis for guilty pleas to be entered by Goran Jelisić" was jointly submitted to the Trial Chamber on 9 September 1998.

On 29 October 1998, Goran Jelisić pleaded guilty to thirty-one counts of the indictment - fifteen counts of crimes against humanity and sixteen counts of violations of the laws or customs of war. Goran Jelisić pleaded not guilty to genocide.

The Trial Chamber was satisfied that the guilty plea entered by the accused was made voluntarily, was informed and unequivocal and that there was a factual basis for the crime and the accused's participation in it. As a result, the subsequent proceedings before the Trial Chamber were limited to the count of genocide.

## THE TRIAL

The trial of Goran Jelisić initially commenced on 30 November 1998 before Judge Claude Jorda (presiding), Judge Fouad Riad and Judge Almiro Rodrigues. However, due to the illness of Judge Riad and the refusal of the accused to have another Judge replace him, the trial was halted after three days. It resumed on 30 August 1999, and the Prosecution completed its case on 22 September 1999. There was no presentation of the Defence case (please see below).

## RULE 98*bis* PROCEEDINGS

After the Prosecution concludes the presentation of its evidence, the Defence can ask for the dismissal of the case, if it believes that the presented evidence was insufficient to prove the charges. If the Trial Chamber believes that the Prosecution has not presented sufficient evidence, it can dismiss the case or certain charges and enter a judgement of acquittal before the beginning of the presentation of defence evidence.

On completion of the Prosecution's case on 22 September 1999, the Trial Chamber informed the parties that it would render a judgement pursuant to Rule 98 *bis* which obliges the Trial Chamber to pronounce the acquittal of the accused when the evidence presented by the Prosecution is insufficient to sustain a conviction. The Trial Chamber considered that in order to convict an accused of genocide, it must be proven that the accused had the intent to destroy, at least in part, a given group, or that the accused had at least the clear knowledge that he was participating in genocide, that is to say the destruction, at least

in part, of a given group. The Trial Chamber considered that the Prosecutor had not proved the sufficient elements required to establish beyond a reasonable doubt that Goran Jelisić planned, incited, ordered or otherwise participated with the intent of destroying, even in part, the Bosnian Muslim population as a national, ethnic or religious group. Accordingly, the Trial Chamber acquitted the accused on the charge of genocide.

## TRIAL CHAMBER JUDGEMENT

Goran Jelisić pleaded guilty to and was sentenced to 40 years in prison for fifteen counts of crimes against humanity and sixteen counts of violations of the laws or customs of war. His crimes include the murder of 13 people, the beating of four people and the plunder of private property in the municipality of Brčko, a sizeable town in the Posavina corridor in the north-eastern corner of Bosnia and Herzegovina on its border with Croatia in May 1992. The Trial Chamber rendered its judgement on 19 October 1999.

In the judgement, the Trial Chamber found that from about 30 April 1992, Serb forces fought to obtain control of Brčko, a town and municipality in Bosnia and Herzegovina. The Serb forces, with the assistance of local Serb authorities, expelled Croat and Muslim residents from their homes, holding them at collection centres where many were killed, beaten and otherwise mistreated. Many of the women, children and elderly were confined at the nearby village of Brezovo Polje.

The Serbian offensive targeted at the non-Serbian population of Brčko, entailed the April 1992 explosions that destroyed the two bridges in Brčko spanning the Sava river, marking the commencement of hostilities by the Serb forces in the Brčko area. The area had been previously split into three sectors, including one which was designated as exclusively Serb on the demand of Bosnian Serb political officials. On 1 May 1992, radio broadcasts ordered Muslims and Croats to surrender their arms. As of 1 May 1992, the Serbian forces, comprised of soldiers and paramilitary and police forces, were deployed in the town. Goran Jelisić was part of the Bosnian Serb forces that took part in the operation conducted against the non-Serb civilian population in Brčko.

From about 7 May 1992 until early July 1992, Serb forces confined hundreds of Muslim and Croat men and a few women at the Luka camp (a warehouse facility on the Sava river, just outside of Brčko) in inhumane conditions and under armed guard with detainees being systematically killed. Almost every day during that time, Goran Jelisić, often assisted by camp guards, entered the Luka camp's main hangar where most detainees were kept, selected detainees for interrogation, beat them and then often shot and killed them.

The organised evacuation of the inhabitants of Brčko, neighbourhood by neighbourhood, was then followed by their transfer to collection centres where the Serbs were separated from the Muslims and Croats. According to witnesses, the Serb men were immediately enrolled in the Serb forces whilst the women, children and men over sixty were evacuated by bus to neighbouring regions. The Muslim and Croat men between sixteen and about sixty remained in detention at the collection centres. Many of them, nearly all Muslims, were then transferred by bus or lorry to the Luka camp, a former port facility and incarcerated.

The detainees at the Luka camp, and also some of those who were rearrested after having been released, were then interned at the detention camp in Batković (near Bijeljina in Eastern Bosnia) in July 1992. Most of the prisoners were then exchanged, beginning in October 1992. In May 1992, Goran Jelisić was part of the Serb forces that took part in the operation conducted against the non-Serb civilian population in Brčko. It was indeed in anticipation and in service of the attack that Goran Jelisić was given police duties in Brčko. He was an active participant in this attack and the Trial Chamber concluded that he must have known of the widespread and systematic nature of the attack. He introduced himself as the "Serb Adolf", said that he had come to Brčko to kill Muslims and often informed the Muslim detainees and others of the numbers of Muslims he had killed.

The Trial Chamber emphasised the degree of organisation and coordination of the criminal activities in the Brčko region, insisting that they could only have been committed with the enthusiastic support of participants like Goran Jelisić. This was implicit in the identical and methodical nature of the murders admittedly carried out by Goran Jelisić whereby having undergone interrogation, during which they were severely beaten with truncheons and clubs, the victims were then placed in the hands of Goran Jelisić who would execute them, generally with two bullets to the back of the neck fired from a "Scorpion" pistol fitted with a silencer. This pattern was evident in the five murders perpetrated at the Brčko police station and the eight murders perpetrated at the Luka camp, all committed by Goran Jelisić.

The Trial Chamber pointed out the repugnant, bestial and sadistic nature of Goran Jelisić’s behaviour, stating that his cold-blooded commission of murders and mistreatment of people attest to a profound contempt for mankind and the right to life.

With regard to mitigating circumstances, the Trial Chamber took into consideration Goran Jelisić’s age, the fact that he had had no previous criminal record, that he was the father of a child and that he had pleaded guilty to thirty-one counts. However, the Trial Chamber lowered the weight of his guilty plea on the basis that Goran Jelisić failed to demonstrate true remorse.

Moreover, given Goran Jelisić’s outward enthusiasm for committing the crimes, the inhumanity of the crimes, his scornful attitude towards victims and the dangerous nature evidenced by his behaviour; the Trial Chamber considered the aggravating factors to far outweigh any mitigating circumstances in the case of Goran Jelisić.

Furthermore, the Trial Chamber held that the impact of the accused’s behaviour went well beyond the great physical and psychological suffering inflicted on the immediate victims of his crimes and on their relatives. All the witnesses to the crimes, who were at Goran Jelisić’s mercy, suffered as well.

The Trial Chamber handed out one single sentence considering that, although the crimes had been qualified as both crimes against humanity and war crimes, they were both part of a single set of criminal acts.

On 14 December 1999, the Trial Chamber issued its written judgement, convicting Goran Jelisić on the basis of individual criminal responsibility (Article 7(1) of the Statute of the Tribunal) with:

- Murders; cruel treatment; plunder (violations of the laws or customs of war, Article 3),
- Murders; inhumane acts (crimes against humanity, Article 5).

Sentence: 40 years’ imprisonment.

## **APPEALS CHAMBER JUDGEMENT**

Both sides appealed, the Prosecution against the acquittal on the genocide count; Goran Jelisić against his sentence on the counts to which he pleaded guilty. The Prosecution requested that the case be remitted to a differently constituted Trial Chamber for a new trial.

The Appeals Chamber by majority considered that it was not appropriate in the circumstances of this case to order that the case be remitted for further proceedings and declined to reverse the acquittal. The Appeals Chamber found that the Trial Chamber had erred in finding Goran Jelisić guilty of two murders under counts 16 and 17 of the second amended indictment, when he in fact had pleaded guilty to only one of the murders. However, as Goran Jelisić was convicted of 13 murders, the Appeals Chamber decided that the erroneous conviction did not affect sentencing. The Defence’s appeal against the length of the sentence was unanimously rejected and the 40-year term confirmed.

On 5 July 2001, the Appeals Chamber rendered its judgement, affirming the sentence of 40 years’ imprisonment as imposed by the Trial Chamber on 14 December 1999.

## **REQUEST FOR REVIEW**

On 7 January 2002, Defence counsel for Goran Jelisić filed a confidential request for review of the judgements of the Trial Chamber and Appeals Chamber. On 8 January 2002, the President of the Tribunal ordered that the Appeals Chamber decide on the request for review, composed of Judge Shahabuddeen (presiding), Judge Pocar, Judge Güney, Judge Gunawardana and Judge Meron.

On 2 May 2002, the Appeals Chamber dismissed the request.

On 29 May 2003, Goran Jelisić was transferred to Italy to serve his sentence. Credit was given for time served since 22 January 1998.